

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): James Travis et al. ) Group Art Unit: 1652  
  )  
Serial No.: 10/008,355              ) Examiner: S. Swope  
Confirmation No. 4382                )  
  )  
Filed: November 8, 2001             )  
  )  
For: DIPEPTIDYLPEPTIDASES AND METHODS OF USE

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**DECLARATION UNDER 37 C.F.R. § 1.132**

Assistant Commissioner for Patents  
Washington D.C. 20231

I, Loren D. Albin, declare and say as follows:

1. I am a patent attorney registered to practice before the United States Patent and Trademark Office. My Registration Number is 37,763.
2. On November 8, 2001, the above-identified application was filed. In the specification at page 8, lines 8-17, is a brief description of Figure 6. The specification states that "[s]equences of DPP-7 related proteinases were obtained from the conceptual translation of the following ORFs retrieved from unfinished and finished genomes databases (available at [www.tigr.org](http://www.tigr.org)): . . . P1- *Porphyromonas gingivalis* gnl | TIGR | *P. gingivalis*\_CPG.con (SEQ ID NO:8)."
3. An e-mail I sent to [dhawkins@tigr.org](mailto:dhawkins@tigr.org) dated October 25, 2002 is attached as Exhibit A. The e-mail requested information "on the following contig: *Porphyromonas gingivalis* gnl | TIGR | *Porphyromonas gingivalis*\_CPG.con." Specifically, the e-mail asked for information on "when the sequence was first made available to the public on the

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Unfinished Microbial Genome database." The e-mail also asked "has the sequence been changed or revised since it was first made available to the public?"

4. An e-mail dated November 15, 2002 and sent to me from [mbrown@tigr.org](mailto:mbrown@tigr.org) is attached as Exhibit B. The e-mail stated that "[a]s part of TIGR's requirements under federal funding received to conduct these sequencing projects, sequence data is required to be placed on TIGR's website via Blast search; therefore, various versions of the data are released on a continuous basis. In addition, TIGR makes the flat-files of most genomes sequenced available to both academic and commercial licensees under the Unfinished Genomic Sequence Data Subscription Agreement. It is estimated that the sequence you are interested in was made available in June of 1998 on TIGR's website and through the subscription agreement." The e-mail also stated that "[w]ith regard to your second question, TIGR's sequence data is continuously updated until annotation is finished and the genome is complete."
5. I further declare that all statements made herein of my own knowledge are true, and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent that issues thereon.

Date: January 7, 2003

Signed: Loren D. Albin

Loren D. Albin

Registration No. 37,763

**Loren D. Albin**

## Exhibit A

**From:** Loren D. Albin  
**Sent:** Friday, October 25, 2002 8:42 AM  
**To:** 'dhawkins@tigr.org'  
**Subject:** FW: Sequence Availability Information

I called the TIGR contact line and was given your e-mail address as the contact person who could answer my questions that are outlined in the attached e-mail. Please let me know if you are not the proper contact to help me. Thank you for your help. Please let me know if you need any additional information.

Loren Albin  
Mueting & Raasch  
612-305-1225

-----Original Message-----

**From:** Loren D. Albin  
**Sent:** Wednesday, October 23, 2002 3:03 PM  
**To:** 'www@tigr.org'  
**Subject:** Sequence Availability Information

I am writing to request information on the date a sequence was first made available to the public on the Unfinished Microbial Genome database. Specifically, I need information for the following contig:

Porphyromonas gingivalis gnl | TIGR | Porphyromonas gingivalis\_CPG.con

I need to find out when the sequence was first made available to the public on the Unfinished Microbial Genome database. Also, has the sequence been changed or revised since it was first made available to the public?

Thank you for your help. If you need any additional information, please contact me by telephone or e-mail. If I need to direct this request to someone else, I would appreciate your help in locating the proper person.

Thank you.

Loren Albin  
Mueting & Raasch  
612-305-1225

**From:** Brown, Michael J. [mbrown@tigr.org]  
**Sent:** Friday, November 15, 2002 1:56 PM  
**To:** Loren D. Albin  
**Subject:** RE: Sequence Availability Information

Mr. Albin,

As part of TIGR's requirements under federal funding received to conduct these sequencing projects, sequence data is required to be placed on TIGR's website via Blast search; therefore, various versions of the data are released on a continuous basis. In addition, TIGR makes the flat-files of most genomes sequenced available to both academic and commercial licensees under the Unfinished Genomic Sequence Data Subscription Agreement. It is estimated that the sequence you are interested in was made available in June of 1998 on TIGR's website and through the subscription agreement.

With regard to your second question, TIGR's sequence data is continuously updated until annotation is finished and the genome is complete.

Regards,  
Michael

-----Original Message-----

From: Loren D. Albin [mailto:lalbin@mrgs.com]  
Sent: Friday, November 15, 2002 10:10 AM  
To: Brown, Michael J.  
Subject: RE: Sequence Availability Information

Mr. Brown: A patent Examiner from the United States Patent and Trademark Office has requested the information in conjunction with an application that we are prosecuting. The Examiner needs the date that the contig sequence was available to the public to determine if the sequence is prior art against our application.

Please call me or e-mail me if you need any additional information.

Thank you for your help.

(Mr.) Loren Albin  
Mueting & Raasch  
612-305-1225

-----Original Message-----

From: Brown, Michael J. [mailto:mbrown@tigr.org]  
Sent: Friday, November 15, 2002 7:08 AM  
To: Loren D. Albin  
Subject: RE: Sequence Availability Information

Ms. Albin,

Ms. Hawkins forwarded your request to my attention, but prior to answering your questions I would first like to know the nature and purpose of this request.

Regards,  
Michael J. Brown  
Director of Technology Transfer & Senior Counsel  
The Institute for Genomic Research  
9712 Medical Center Drive

Rockville, MD 20850

-----Original Message-----

From: Loren D. Albin [mailto:lalbin@mrgs.com]  
Sent: Thursday, November 07, 2002 6:00 PM  
To: Hawkins, Damar W.  
Subject: RE: Sequence Availability Information

Thank you for forwarding my request. I am following up to find out when you will be able to provide me with my requested information.

Thanks,

Loren Albin  
Mueting & Raasch  
612-305-1225

-----Original Message-----

From: Hawkins, Damar W. [mailto:dhawkins@tigr.org]  
Sent: Friday, October 25, 2002 9:01 AM  
To: Loren D. Albin  
Cc: Brown, Michael J.  
Subject: RE: Sequence Availability Information

I have forwarded your request to our staff counsel, Michael Brown. Unfortunately, he is on holiday, returning to work on Monday, November 4. He will have a reasonable backlog of work on his return so do not expect to hear from him immediately. Damar Hawkins

-----Original Message-----

From: Loren D. Albin [mailto:lalbin@mrgs.com]  
Sent: Friday, October 25, 2002 9:42 AM  
To: dhawkins@tigr.org  
Subject: FW: Sequence Availability Information

I called the TIGR contact line and was given your e-mail address as the contact person who could answer my questions that are outlined in the attached e-mail. Please let me know if you are not the proper contact to help me. Thank you for your help. Please let me know if you need any additional information.

Loren Albin  
Mueting & Raasch  
612-305-1225

> -----Original Message-----

> From: Loren D. Albin  
> Sent: Wednesday, October 23, 2002 3:03 PM  
> To: 'www@tigr.org'  
> Subject: Sequence Availability Information  
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> I am writing to request information on the date a sequence was first  
> made available to the public on the Unfinished Microbial Genome  
> database. Specifically, I need information for the following contig:  
>  
> Porphyromonas gingivalis gnl | TIGR | Porphyromonas gingivalis\_CPG.con  
>  
>  
> I need to find out when the sequence was first made available to the  
> public on the Unfinished Microbial Genome database. Also, has the  
> sequence been changed or revised since it was first made available to  
> the public?

>  
> Thank you for your help. If you need any additional information,  
> please contact me by telephone or e-mail. If I need to direct this  
> request to someone else, I would appreciate your help in locating the  
> proper person.  
>  
> Thank you.  
>  
> Loren Albin  
> Mueting & Raasch  
> 612-305-1225  
> \*=====\*  
> \* PRIVILEGED ATTORNEY/CLIENT INFORMATION  
> \* This message contains attorney/client privileged communications and  
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> \*  
> \* Mueting & Raasch  
> \* 203 Textile Building  
> \* 119 North Fourth Street  
> \* Minneapolis, MN 55401.  
> \* 612/305-1225 Voice  
> \* 612/305-1228 Fax  
> \* lalbin@mrgs.com  
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